

Section 53

CONDITIONAL USE PROCEDURE

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53.010 **Generally.**

Certain uses, while generally not suitable in a particular zoning classification, may, under certain circumstances, be acceptable. When such circumstances exist, a conditional use permit may be granted by the commission. Conditions may be applied to the issuance of the permit and periodic review may be required. The permit shall be granted for a particular use and not for a particular person or firm. No conditional use permit shall be granted for a use which is not specifically designated as a conditional use in this title.

53.020 **Application for conditional use permit-Notice requirements.**

A. The person applying for a conditional use permit shall fill out and submit to the planning director the appropriate form, with the required fee. The request for a conditional use permit shall follow the procedures and application requirements of Section 51 and Section 52.

B. In consideration of all conditional use permit applications, a public hearing shall be conducted by the planning board and a public meeting shall be conducted by the commission. Notice of the planning board public hearing and commission public meeting for conditional use permit applications shall be published at least once in a newspaper published and having general circulation in the county, posted in at least one conspicuous location on the site in question, and mailed to all owners of real property of record adjacent to the site in question using last declared county real estate tax records, not more than forty-five (45) days nor less than fifteen (15) days prior to the scheduled public hearings and approvals, specifying the date, number, time and place for such hearings and approvals. It shall specify the name and address of the applicant, the name and address of the owner of record of the property, a legal description of the property affected, the street address or its location by approximate distances from the nearest major street or road intersections so the property can be readily identified, and a brief statement of the nature of the public hearing, public meeting and approvals.

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C. If a rezoning is required prior to approval of a conditional use permit the application for rezoning and the conditional use permit may be filed and acted upon simultaneously,

however the board's recommendation on the conditional use permit shall not be effective until zoning has been approved by the commission.

53.030 Commission consideration and findings.

A. The commission, in approving a conditional use permit, shall find as follows:

1. That the site for the proposed use is adequate in size and, topography to accommodate such use, and all yards, spaces, walls and fences, parking, loading and landscaping are adequate to properly relate such use with the land and uses in the vicinity;
2. That the site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use;
3. That the proposed use will have no adverse effect upon the abutting property;
4. That the proposed use shall be in conformance with the *Gallatin County Plan*;
5. That the conditional use has complied with all conditions stipulated in Sections 46, 47, and 50;
6. That any additional conditions stated in the approval are deemed necessary to protect the public health, safety and general welfare. Such conditions may include but are not limited to:
 - a. Regulation of use,
 - b. Special yards, spaces and buffers,
 - c. Special fences, solid fences and walls,
 - d. Surfacing of parking areas,
 - e. Requiring street, service road or alley dedications and improvements or appropriate bonds,
 - f. Regulation of points of vehicular ingress and egress,
 - g. Regulation of signs,
 - h. Requiring maintenance of the grounds,
 - i. Regulation of noise, vibrations, odors,
 - j. Regulation of hours for certain activities,
 - k. Time period within which the proposed use shall be developed,
 - l. Duration of use,
 - m. Requiring the dedication of access rights,
 - n. Other such conditions as will make possible the development of the zoning jurisdiction in an orderly and efficient manner.

B. The commission shall, in addition to all other conditions, impose the following general conditions upon every conditional use permit granted:

1. That the right to a use and occupancy permit shall be contingent upon the fulfillment of all general and special conditions imposed by the conditional use permit procedure;
2. That all of the special conditions shall constitute restrictions running with the land use, shall be binding upon the owner of the land, his successors or assigns, and shall be recorded as such with the Gallatin County clerk and recorder's office by

- the property owner prior to the issuance of any building permits, final site plan approval or commencement of the conditional use;
3. That all conditions specifically stated under any conditional use listed in this title shall apply and be adhered to by the owner of the land, successors or assigns;
 4. That all of the special conditions shall be consented to in writing by the applicant.

C. Applications for conditional use permits may be approved, conditionally approved or denied by motion of the commission. If an application is denied, the denial shall constitute a finding that the applicant has not shown that the conditions required for approval do exist.

53.040 Notification of commission action.

The applicant shall be notified in writing of the action taken by the commission within seven business days of its action. If the conditional use permit has been granted, the permit shall be issued upon the signature of the planning director, and any conditions, automatic termination date, or period of review shall be stated on the permit.

53.050 Modification or enlargement of structures authorized under a conditional use permit.

Any proposed additions, enlargements or modifications of the structures approved in any conditional use permit or any proposed extension of the use into areas not approved in any such permit, shall be subject to Section 52 and Section 53 of this title.